UNITED STATES PATENT AND TRADEMARK OFFICE

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Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE _3_ MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.
- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1)☒ Responsive to communication(s) filed on _08 September 2008_.

2a)☒ This action is **FINAL**.   2b)☐ This action is non-final.

3)☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4)☒ Claim(s) _1-20 and 22-25_ is/are pending in the application.

    4a) Of the above claim(s) _____ is/are withdrawn from consideration.

5)☐ Claim(s) _____ is/are allowed.

6)☒ Claim(s) _1-20 and 22-25_ is/are rejected.

7)☐ Claim(s) _____ is/are objected to.

8)☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9)☐ The specification is objected to by the Examiner.

10)☐ The drawing(s) filed on _____ is/are: a)☐ accepted or b)☐ objected to by the Examiner.

    Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

    Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11)☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

12)☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

    a)☐ All   b)☐ Some * c)☐ None of:

      1.☐ Certified copies of the priority documents have been received.

      2.☐ Certified copies of the priority documents have been received in Application No. _____.

      3.☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

    * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

1)☒ Notice of References Cited (PTO-892)

2)☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)

3)☐ Information Disclosure Statement(s) (PTO/SB/08)
    Paper No(s)/Mail Date _____.

4)☐ Interview Summary (PTO-413)
    Paper No(s)/Mail Date. _____.

5)☐ Notice of Informal Patent Application

6)☐ Other: _____.

DETAILED ACTION

Response to Arguments

1.   Applicant's arguments with respect to claims 1-20 and 22-25 have been

considered but are moot in view of the new ground(s) of rejection.

Although a new ground of rejection is presented, the examiner believes

necessary to respond to some of the applicant's arguments.

The applicant argues that "*...one of ordinary skill in the art would not look to

Schaffer to determine how to characterize a user's viewing preference for the purpose

of determining what advertisements to insert into a TV program*", Remarks, page 9. To

this matter the examiner respectfully disagrees.

Zigmond teaches a system that keeps track or monitors user's viewing habits to

determine <u>user preferences or profile </u>(col. 11 lines 11-30; col. 13 lines 5-28); in other

words, Zigmond tries to measure or predict what the user likes or dislikes based on the

user's viewing data, with the objective of presenting content (in this case

advertisements) that is more effectively tailored to the needs or interest of individual

users (col. 5 lines 1-14).

Schaffer, on the other hand, teaches a system that tries to determine or predict

user preferences based on viewing habit information for presenting content (in this

case, television programs) more tailored to user's interests (col. 1 lines 6-7; col. 4 lines

6-19). Schaffer teaches on how to establish what a user likes or dislikes and in this way,

characterize a user profile for the use of recommending programs (col. 2 lines 55-63). In

other words, Schaffer, in the same way as Zigmond, monitors user's viewing habits to

estimate what he/she likes or dislikes, to have a user profile and with that information,

select content more in line to the user's need. Schaffer was brought in because he uses

a more complete way of closely knowing an individual user. Given that the further step

of selecting content (Zigmond: advertisements and Schaffer: programs) for the user is

irrelevant to how user viewing habits are monitored for getting to know better user's

preferences, the examiner respectfully believes that one of ordinary skill in the art would

have looked into Schaffer to improve the user's preferences characterization step, given

that he explicitly considers what the user does not like. Therefore, given that selecting

commercials or selecting a program do not add a technical difference to the step of

monitoring the user's viewing habits for selecting content (as seemed to be argued by

the applicant), the examiner respectfully believes that the combination is proper and will

maintain the art of record.

For the newly added limitation, a new ground of rejection is presented.

Claim Rejections - 35 USC § 103

2.   The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all

obviousness rejections set forth in this Office action:

> (a) A patent may not be obtained though the invention is not identically disclosed or described as set
> forth in section 102 of this title, if the differences between the subject matter sought to be patented and
> the prior art are such that the subject matter as a whole would have been obvious at the time the
> invention was made to a person having ordinary skill in the art to which said subject matter pertains.
> Patentability shall not be negatived by the manner in which the invention was made.

3.   Claims rejected under 35 U.S.C. 103(a) as being unpatentable over Zigmond et

al. (hereinafter 'Zigmond', Patent No. 6,698,020, of record) in view of Schaffer (Patent

No. 7,051,352, of record) in further view of Ali (Pub. No. 2002/0199194).

        Regarding claims 1 and 14, Zigmond teaches a method for displaying a TV

program to a viewer, comprising:

        transmitting/receiving a plurality of TV programs, wherein at least some of the

received TV programs compete with at least some others of the received TV programs

for viewership; allowing the viewer to select one of the plurality of received TV programs

for viewing; transmitting a plurality of additional programs **(col. 7 lines 13-36)**;

        storing data indicative of the viewer selected TV program and data indicative of

at least some others of the TV programs competing with the viewer selected TV

program; determining viewing preferences using the stored data indicative of the user

selected TV program and data indicative of at least some others of the TV programs

competing with the viewer selected TV program, as well as one or more known program

traits_**(col. 11 lines 11-30; col. 13 lines 5-28, where the EPG description of the**

programs help to identify the 'type' of user preferred programs).

        controlling the programming displayed to the viewer in accordance with the

viewer selection and the determined viewing preferences **(Fig. 6; col. 17 lines 10-50;**

col. 6 lines 6-9).

On the other hand, Zigmond does not explicitly teach storing data indicative of TV programs that were not selected along with data indicative of the viewer selected TV programs and determining viewing preferences using both indicative data.

However, in an analogous art, Schaffer teaches a system and method for adaptively recommending content to a viewer where record is kept or stored of what programs have been watched and total or sample of programs not watched (Fig. 3, col. 2 lines 38-67; col. 3 lines 28-42). Furthermore, Schaffer uses this viewing history (programs watched/not-watched and the characteristics they contain) to calculate or determine viewing preferences (Figs. 6 A-C, col. 4 line 20-col. 5 line 19).

Therefore, it would have been obvious to an ordinary skilled in the art at the time of the invention to have modified Zigmond's invention with Schaffer's feature of storing data indicative of non-selected TV programs and determine viewing preferences using this data along with data indicative of selected programs for the benefit of having a more close user's viewing preferences determination by *'differentiating between the features of shows that are liked and those that are not liked...'*, Schaffer, col. 2 lines 54-59.

Additionally, Zigmond and Schaffer do not explicitly teach using one or more hidden or associated program traits to control the program displayed to the viewer.

However, in an analogous art, Ali teaches a system that selects content for the user based on explicit user inputs ([0031]-[0034]), inferred user preferences based on known program traits (based on the known features of a program, new content is rated and further recommended to users ([0076]-[0080]) and hidden or associated program traits (correlation factors calculated from the ratings and selections of multiple other

users which measure the correlation between a pair of programs without using the EPG

characteristic of the programs, [0039]-[0047]; [0062]). Ali's system takes the input of

thousands of other users and calculates correlation factors that are used to select new

content. These correlation factors are found to be good predictors ([0045]).

Therefore, it would have been obvious to one of ordinary skill in the art at the

time of the invention to have modified Zigmond and Schaffer's invention with the use of

program-pairs correlation factors as taught by Ali for the benefit of using the correlation

between content to enhance the prediction of content and for the benefit of eliminating

or filtering out content to be selected based on the low correlation between a user

selected content and a new content ([0663]-[0064]).

Regarding claim 2, the claimed "displaying the viewer selected program and

additional programs selected in accordance with the determined viewing" is met as

disclosed by Zigmond , wherein 'viewers change the television channel to tune into

channels that are broadcasting programming' (column 13, lines 12-19) (claimed "viewer

selected program"), and 'advertisements to be shown to a viewer are selected

according to designated criteria in combination with information that characterizes the

viewer (claimed "previously determined viewing preferences of the viewer") (column 6,

lines 6-9), which are displayed on display [61], Figure 3 and display [58], Figure 4.

Regarding claims 3 and 16, the claimed "the displaying one or more

advertisements" is met since 'the user may select one of a plurality of ads' that 'the user

is presented with' **(Zigmond, column 9, lines 30-31; where in order to receive the plurality of advertisements needs transmission)**.

Regarding claim 4, the claimed "receiving a plurality of additional programs" is met as discussed in claim 3, since displaying a plurality of advertisements or "additional programs" requires the receiving of the additional programs.

Regarding claim 5, the claimed "selecting one or more of the received additional program in accordance with the previously determined viewing preferences for display to the viewer" is disclosed by Zigmond, wherein 'the user may select one of a plurality of ads' that 'the user is presented with' (column 9, lines 30-31), wherein the 'ads or "additional programs" to be shown to a viewer are selected according to designated criteria in combination with information that characterizes the viewer' (claimed "previously determined viewing preferences of the viewer") (column 6, lines 6-9).

Regarding claims 6 and 17, the claimed "receiving the plurality of programs through one or more broadcast televisions, cable television networks, computer networks, or telephone networks" is disclosed by Zigmond wherein 'programming is transmitted via any suitable program delivery channel, such as an over-the-air broadcast, a cable provider, a consumer satellite service, telephone lines, via the Internet, or by any other system for transmitting video data' (column 7, lines 17-21).

Regarding claims 7 ,15 and 18, the claimed "receiving the additional programs independently of the TV programs" is met as shown in Zigmond: figure 4, wherein ad source 62 or "additional programs" and programming source [66] or "or TV programs" are each received independently through streams [64] and [52] respectively.

Regarding claims 8 and 19, the claimed "receiving the plurality of TV programs on a first set of TV channels" and "receiving the plurality of additional programs on a second set of TV channels" is disclosed by Zigmond wherein "advertisement stream 64 may be broadcast on a dedicated channel during a late night period of time when relatively few viewers are watching television" TV programs are on a different channel (column 18, lines 10-15).

Regarding claims 9 and 20, Zigmond discloses "multiplexing advertisement stream 64 into video programming feeds 38 and 39," (column 18, lines 20-21) which meets the claimed "receiving the additional programs multiplexed with one or more of the TV programs."

Regarding claim 10, the claimed "storing the received additional programs for subsequent display to the viewer" is met by Zigmond's "a local repository having stored therein a plurality of advertisements, from which an advertisement stream 64 is delivered to the ad insertion device" (column 8, lines 2-7), which is later displayed on display [58].

Regarding claim 11, the claimed "displaying the viewer selected program and

additional programs selected in accordance with the previously determined viewing

preferences of the viewer from among the stored additional programs" is disclosed by

Zigmond. wherein 'viewers change the television channel to tune into channels that are

broadcasting programming' (column 13, lines 12-19) (claimed "viewer selected

program") and "a device such as advertisement repository 86 of FIG. 5 may be used to

store the transmitted advertisements for later selection and display" (column 18, lines

1-11).

Regarding claims 12 and 22, the claimed "receiving a plurality of additional

programs including targeting parameters related to the previously determined viewing

preferences of the viewer" is disclosed by Zigmond wherein the "plurality of additional

programs" are met as discussed in claim 4, and wherein "The viewer and system

information may include data provided by the viewer upon initiation of the services

provided by the ad insertion device 80, such as a voluntary survey or questionnaire

filled out during the registration process" (column 10, lines 36-48).

Regarding claims 13 and 23, the claimed "targeting parameters include one or

more of TV viewing preferences, demographic information, and additional program

display schedule information" is disclosed by Zigmond wherein 'advertisements to be

shown to a viewer are selected according to designated criteria in combination with

information that characterizes the viewer (claimed "viewing preferences"), the content of

video programming feed (claimed "additional program display schedule information"),

and the geographical location of the household' (claimed "demographic information")

(column 6, lines 6-9). Furthermore, "viewer demographic data may be stored in storage

location 82, including age, sex, income, preferred language, number of residents, or

similar information (claimed "demographic information") (column 10, lines 48-54). Also,

"the advertisement parameters include, for example, a description of the content of the

advertisement, codes that identify the subject matter of the advertisement, or other

mechanisms for characterizing the advertisement so that the advertisement may be

displayed to an appropriate segment of the viewing population...the ad selection rules

used to match the viewer and system information of storage location 82 or the

programming content information of electronic program database 81 with the

advertisement parameters associated with the advertisements" (claimed "additional

program display schedule information") (column 11, lines 31-49).

Regarding claims 24 and 25, Zigmond, Schaffer and Ali teach wherein the

determining viewing preferences comprise:

determining viewing preferences by performing a regression analysis based on the

stored data and the one or more known program traits (Ali: based on the user selections

and the features that those selections contain, new content representing the predicted

user viewing preference is chosen, [0076]-[0079]).

Conclusion

4.   Applicant's amendment necessitated the new ground(s) of rejection presented in

this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP

§ 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37

CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE

MONTHS from the mailing date of this action. In the event a first reply is filed within

TWO MONTHS of the mailing date of this final action and the advisory action is not

mailed until after the end of the THREE-MONTH shortened statutory period, then the

shortened statutory period will expire on the date the advisory action is mailed, and any

extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of

the advisory action. In no event, however, will the statutory period for reply expire later

than SIX MONTHS from the date of this final action.

Any inquiry concerning this communication or earlier communications from the

examiner should be directed to OMAR PARRA whose telephone number is (571)270-

1449. The examiner can normally be reached on 9-6 PM (M-F, every other Friday off).

If attempts to reach the examiner by telephone are unsuccessful, the examiner's

supervisor, John W. Miller can be reached on 571-272-7353. The fax phone number for

the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the

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USPTO Customer Service Representative or access to the automated information

system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/John W. Miller/
Supervisory Patent Examiner, Art Unit 2421

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